

CHAPTER 15 - GRIEVANCE AND EEO COMPLAINT PROCEDURES

GENERAL

The grievance procedure is established to provide a written, systematic means of resolving grievances after informal efforts with the immediate supervisor have failed. This procedure may be used by an individual or group of employees to obtain consideration of grievances regarding EEO complaints, or non-compliance with the Arizona Department of Administration (ADOA) Personnel Rules, Agency policy, or any other problem over which the Agency has jurisdiction and for which formal redress is not provided elsewhere. For grievance procedures applicable to the Performance Appraisal for State Employees (PASE) employees should refer to Chapter 12 of this directive. General provisions and restrictions of the grievance process are contained in R2-5-701 and R2-5-702 of ADOA Personnel Rules. The term "days" in this chapter refers to normal department workdays.

It should be noted that the most effective method of resolving any problem is by following the supervisory chain. The Grievance Procedure should not be viewed as the primary avenue for problem resolution.

GRIEVANCE PROCEDURE

The aggrieved party initiates the process and each subsequent step in writing, and signs the grievance. The time limits at each step will be adhered to unless both parties at the step involved grant an extension in writing. If a response is not reached within the specified time and no waiver is granted, the grievant may proceed to the next step with a written request. Conflict resolution can be used to resolve the grievance at any point in the process prior to the initiation of Step 4. If a grievance alleges non-compliance with a Personnel Rule the specific rule must be cited.

After the oral discussion at Step 1, employees are allowed up to four hours with pay to prepare the grievance and/or confer with their official representative on the grievance. Employees must obtain prior supervisory approval for time off, which will be subject to the operational needs of the unit. The time an employee devotes to attending any meetings scheduled by management to discuss the grievance is considered work time and is not included in the four hour limitation specified above. It is the employee's responsibility to advise the supervisor of the time, date, and approximate duration of the meetings so it does not unduly conflict with or impede the operational needs of the unit.

If a group of employees presents a grievance, all persons must sign the grievance and that group must designate a contact person from the group. All correspondence to the group will be directed to the contact person. While some grievants may not continue the grievance at subsequent steps, new grievants may not be added once the initial grievance has been filed. The grievant(s) may select a representative at any step after the preliminary efforts specified in Chapter 15.2.1. Should the representative be a state employee, that employee must receive approval to use earned annual or compensatory leave for all time expended in representing the grievant(s).

If the grievant is not satisfied at any step, he/she may appeal to the next level. Such an appeal must indicate why the response is not acceptable and must sign his/her request to extend his/her efforts.

15.2. Preliminary Efforts

First Line Supervisor - During this phase, attempts should be made to resolve the grievance informally. This phase consists of direct oral discussion between the supervisor and the grievant. Every effort must be made at this level to resolve the grievance.

15.2.2 Step 1

First Line Supervisor/Formal - The grievant presents a statement of his/her concerns in writing to the First Line Supervisor using the Request for Resolution of Employee Grievance. This request must arrive at the supervisor's office no later than ten days after the incident being grieved. The request must be completed as indicated showing a complete statement of all facts and circumstances involved in the alleged violation. It must indicate the specific relief sought and any action already taken.

The First Line Supervisor will respond in writing to the grievant within three days of receipt of the grievance at this step.

In cases of Sexual Harassment or Equal Employment Opportunity, if in the opinion of the grievant, it would be inappropriate or harmful to file a grievance with the first-line supervisor, the complainant may file a grievance with any person in the supervisory chain or with any other officer of the Agency appropriate to the complaint, such as the State Equal Employment Manager. This will meet Step 1 requirements. Subsequent steps will be followed as prescribed.

15.2.3 Step 2

Program Manager/Unit Commander - If the grievant is not satisfied with the Step 1 response he/she may advance the grievance to the Program Manager/Unit Commander. This must be done in writing within five days of receipt of the Step 1 response. Upon receipt of the grievance at Step 2, the Program Manager/Major Commander has five days to investigate and respond in writing.

15.2.4 Step 3

Division Director - If the grievant is not satisfied with the Step 2 response he/she may advance the grievance to the Division Director. This must be done in writing within five days of receipt of the Step 2 response. Upon receipt of the grievance at Step 3, the Director of the appropriate Division has seven days to investigate and respond in writing. The employee will accept or file at Step 4 in writing within five working days.

15.2.5 Step 4

The Adjutant General - If the grievant is not satisfied with the Step 3 response he/she may advance the grievance to The Adjutant General. This must be done in writing within five days of receipt of the Step 3 response. Upon receipt of the grievance at Step 4, The Adjutant General has ten days to investigate and respond in writing. This is the final step except for those circumstances covered in R2-5-702.11.

15.2.6 Step 5

Arizona Department of Administration - For grievances charging discrimination or non-compliance with the personnel rules only, provisions at this level are adequately covered in ADOA Personnel Rule R2-5-702.B.1. If eligible, the employee must file in writing at step 5 within five days of receipt of the Step 4 response. Also see chapter 15.8.

CONFLICT RESOLUTION

Conflict Resolution can be used if both parties agree to sit down with a third neutral party and attempt to reach a resolution. If conflict resolution is requested the response times outlined in Paragraph 15.2 will be suspended for a period of time mutually agreed upon by the grievant and the management person at that level. If the parties are unable to reach an agreement through the conflict resolution process, the grievance procedures and timelines will be resumed and adhered to.

CONTENTS OF RESPONSES

After receiving the written grievance at each level, the supervising authority will investigate the grievance and respond to it. This response will include the findings of his/her impartial investigation. It will also state the employee's next step in the Grievance Process. At the last step in the agency procedure, the employee will be advised of his/her right to appeal a complaint of discrimination or non-compliance with the personnel rules to the Director of the Department of Administration.

REOPENING OF A CASE

The Adjutant General may reopen the grievance for additional review if either party presents new evidence.

AMENDMENTS

Once a grievance is referred to any step beyond the immediate supervisor, it may not be amended. If additional documentation is submitted by the grievant after the initiation of the grievance, the reviewing official may remand the grievance to the appropriate previous level for consideration.

ASSISTANCE TO EMPLOYEE

The employee is entitled to representation after the Preliminary Step at his/her own expense. For EEO/Sexual Harassment complaints, the agency EEO section and designated EEO counselors are available to assist in resolution.

ADOA DIRECTOR LEVEL REVIEW

ADOA has prepared an **IMPORTANT NOTICE** information sheet which is to be included with the agency director level response in cases charging discrimination or non-compliance with the ADOA Personnel Rules.

This notice, which is presented on the next page, should be copied on paper of a color other than white and given to the grievant if appropriate.

IMPORTANT NOTICE

Concerning the Arizona Department of Administration (ADOA) Director Level Review:

Should you file your grievance for review at this level, please keep copies of your grievance package for your record. This is the final step in the process and at that time the originals become the State's official record of the grievance. Your original package including all additional evidence submitted to the ADOA Director will not be returned upon completion of the issues.

The determination at this step is based on a review of written materials submitted in the grievance package and documents or information obtained through other means of research. Interviews may be held at the discretion of the reviewer but are not required. Please be sure that the grievance package provided includes both the grievant and agency responses for each step in the grievance process.

Pursuant to the Personnel Rules, a grievance may not be amended at anytime beyond the immediate supervisor. Hence, the ADOA Director review will address only those issues initially raised at the first written step of the grievance process.

The ADOA Director's response will be sent to you at the address indicated on the agency head's response letter. If you desire receipt at a different location, please include this information in the cover letter elevating your grievance.